

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBERT DOLAN, et al.,

Plaintiffs,

v.

No. CV 20-1304 WJ/CG

CIMAREX ENERGY CO.,

Defendant.

SCHEDULING ORDER

THIS MATTER is before the Court on the Rule 16 Scheduling Conference, held on April 12, 2021, and the parties' *Joint Status Report and Provisional Discovery Plan*, (Doc. 22), filed April 1, 2021. The Court adopts the *Joint Status Report and Provisional Discovery Plan*, (Doc. 22), as an Order of the Court as modified below.

This Scheduling Order pertains to discovery only on issues of conditional certification of the collective action and certification of the class action. After the presiding judge resolves the Plaintiffs' motion for conditional certification of the collective action and certification of the class action, the parties will submit a second Joint Status Report and Provisional Discovery Plan within **30 days** of the presiding judge's order. The Court will then issue a Second Scheduling Order setting forth case management deadlines, including discovery, on the remaining issues.

In accordance with the Civil Justice Expense and Delay Reduction Plan adopted in compliance with the Civil Justice Reform Act, and pursuant to Title 28 U.S.C. § 473(a)(1), this case is assigned to a 150-day discovery track on issues of conditional certification of the collective action and certification of the class action. Accordingly, the Court sets the following case management deadlines:

- i. Plaintiffs to join additional parties and to amend the pleadings by: **May 12, 2021**
- ii. Defendant to join additional parties and to amend the pleadings by: **June 11, 2021**
- iii. Termination date for discovery on issues of conditional certification of the collective action and certification of the class action: **September 9, 2021**
- iv. Motions relating to discovery on issues of conditional certification of the collective action and certification of the class action (including, but not limited to, motions to compel and motions for protective order) to be filed with the Court and served on opposing parties by: **September 29, 2021**
- v. Plaintiffs' motion for conditional certification of the collective action and certification of the class action shall be filed with the Court and served on the opposing party by: **October 12, 2021**
- vi. Defendant's response brief shall be filed with the Court and served on the opposing party by: **November 11, 2021**
- vii. Plaintiffs' reply brief shall be filed with the Court and served on the opposing party by: **November 25, 2021**

Before moving for an order relating to discovery, the parties may request a conference with the Court in an attempt to resolve the dispute. Service of interrogatories

or requests for production shall be considered timely only if the responses are due prior to the deadline. A notice to take deposition shall be considered timely only if the deposition takes place prior to the deadline. The pendency of dispositive motions shall not stay discovery. See D.N.M.LR-Civ. 7 for motion practice requirements and timing of responses and replies. This deadline shall not be construed to extend the twenty-day time limit in D.N.M.LR-Civ. 26.6.

If documents are attached as exhibits to any motions, affidavits or briefs, those parts of the exhibits that counsel want to bring to the attention of the Court must be highlighted in accordance with D.N.M.LR-Civ. 10.6. See D.N.M.LR-Civ. 7 for motion practice requirements and timing of responses and replies.

Discovery on issues of conditional certification of the collective action and certification of the class action shall not be reopened, nor shall case management deadlines be modified, except by an order of the Court upon a showing of good cause. This deadline shall be construed to require that discovery on issues of conditional certification of the collective action and certification of the class action be completed on or before the above date.

The Court further sets the following discovery parameters:

- i. Maximum of 25 Interrogatories by each party to any other party;
- ii. Maximum of 25 Requests for Production by each party to any other party;
- iii. Maximum of 25 Requests for Admission by each party to any other party;
- iv. Maximum of 10 depositions by Plaintiffs and 10 depositions by Defendant;
and,
- v. Depositions are limited to 4 hours, except depositions of parties and

experts, which are limited to 7 hours, unless extended by agreement of the parties.

Service of interrogatories or requests for production shall be considered timely only if the responses are due prior to the deadline. A notice to take deposition shall be considered timely only if the deposition takes place prior to the deadline. The pendency of dispositive motions shall not stay discovery.

Parties may not modify case management deadlines on their own. Good cause must be shown and the Court's express, written approval obtained for any modification of the case management deadlines set forth herein. Any requests for additional discovery on issues of conditional certification of the collective action and certification of the class action must be submitted to the Court by motion before the discovery deadline expires.

Further case management deadlines will be set following resolution of the motion for conditional certification of the collective action and certification of the class action. The Court shall not schedule any deadlines pertaining to expert witnesses and expert reports pursuant to FED. R. CIV. P. 26(a)(2)(B), until there is a ruling on Plaintiffs' forthcoming motion for conditional certification of class action.

Finally, the parties are reminded that Local Rule 73.2 permits parties to consent to proceed before the undersigned in dispositive matters, including trial. The decision to consent to proceed before the undersigned rests with the parties. If the parties agree to consent to the undersigned in the presiding role, they must jointly complete and submit the appropriate Form AO 85, which may be found on the Court's website at <https://www.nmd.uscourts.gov/forms>.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal flourish extending to the right.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE